

AMENDED IN SENATE JUNE 29, 2010

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1140

Introduced by Assembly Member Niello

(Principal coauthor: Assembly Member Torrico)

(Coauthors: Assembly Members Anderson, Cook, Fuentes, Fuller,

Gaines, Garrick, Gilmore, Hagman, and Knight)

(Coauthors: Senators Cogdill, Cox, Huff, and Runner)

February 27, 2009

~~An act to amend Section 655.8 of the Business and Professions Code, relating to healing arts. An act to add and repeal Section 94874.3 of the Education Code, relating to private postsecondary education, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1140, as amended, Niello. ~~Diagnostic imaging services. California Private Postsecondary Education Act of 2009: flight schools and aircraft maintenance programs.~~

Existing law establishes the California Private Postsecondary Education Act of 2009, which, among other things, provides for student protections and regulatory oversight of private postsecondary schools in the state. Existing law establishes the Bureau for Private Postsecondary Education to regulate private postsecondary institutions through the powers granted, and the duties imposed, by the act.

This bill would prohibit the bureau, for the period July 1, 2010, to December 31, 2011, inclusive, from enforcing the act against institutions that offer flight instruction or institutions that offer Federal Aviation

Administration certified educational programs in aircraft maintenance. The bill would also require the Legislature to hold public informational hearings for the purpose of reviewing the appropriateness of regulating educational programs in flight instruction and aircraft maintenance under the act.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law prohibits a healing arts practitioner from charging, billing, or soliciting payment from any patient, client, customer, or 3rd-party payer for performance of the technical component of specified diagnostic imaging services not rendered by the practitioner or a person under the practitioner's supervision, as defined. Existing law also defines a 3rd-party payer as any person or entity who is responsible to pay for CT, PET, or MRI services provided to a patient.~~

~~This bill would specify that a 3rd-party payer includes, but is not limited to, a person or entity who contracts with insurance carriers, self-insured employers, 3rd-party administrators, or any other person or entity who, pursuant to a contract, is responsible to pay for CT, PET, or MRI services.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~^{yes}. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 94874.3 is added to the Education Code,*
- 2 *to read:*
- 3 *94874.3. (a) For the period July 1, 2010, to December 31,*
- 4 *2011, inclusive, the bureau shall not enforce this chapter against*
- 5 *an institution that offers flight instruction or an institution that*
- 6 *offers Federal Aviation Administration certified educational*
- 7 *programs in aircraft maintenance.*
- 8 *(b) The Legislature shall hold public informational hearings*
- 9 *for the purpose of reviewing the appropriateness of regulating*
- 10 *educational programs in flight instruction and aircraft maintenance*
- 11 *under this chapter.*
- 12 *(c) This section shall remain in effect only until January 1, 2012,*
- 13 *and as of that date is repealed, unless a later enacted statute, that*
- 14 *is enacted before January 1, 2012, deletes or extends that date.*
- 15 *SEC. 2. This act is an urgency statute necessary for the*
- 16 *immediate preservation of the public peace, health, or safety within*

1 *the meaning of Article IV of the Constitution and shall go into*
2 *immediate effect. The facts constituting the necessity are:*

3 *In order to prevent the Bureau for Private Postsecondary*
4 *Education from requiring institutions that offer flight instruction*
5 *and institutions that offer Federal Aviation Administration certified*
6 *educational programs in aircraft maintenance to file applications*
7 *for approval to operate on or before August 1, 2010, it is necessary*
8 *for this act to take effect immediately.*

9 ~~SECTION 1. Section 655.8 of the Business and Professions~~
10 ~~Code is amended to read:~~

11 ~~655.8. (a) It is unlawful for any person licensed under this~~
12 ~~division or under any initiative act referred to in this division to~~
13 ~~charge, bill, or otherwise solicit payment from any patient, client,~~
14 ~~customer, or third-party payer for performance of the technical~~
15 ~~component of Computerized Tomography (CT), Positron Emission~~
16 ~~Tomography (PET), or Magnetic Resonance Imaging (MRI)~~
17 ~~diagnostic imaging services if those services were not actually~~
18 ~~rendered by the licensee or a person under his or her supervision.~~

19 ~~(b) Radiological facilities or imaging centers performing the~~
20 ~~technical component of CT, PET, or MRI diagnostic imaging~~
21 ~~services shall directly bill either the patient or the responsible~~
22 ~~third-party payer for such services rendered by those facilities.~~
23 ~~Radiological facilities or imaging centers shall not bill the licensee~~
24 ~~who requests the services.~~

25 ~~(c) This section shall not apply to any of the following:~~

26 ~~(1) Any person who, or radiological facility or imaging center~~
27 ~~that, contracts directly with a health care service plan licensed~~
28 ~~pursuant to Chapter 2.2 (commencing with Section 1340) of~~
29 ~~Division 2 of the Health and Safety Code.~~

30 ~~(2) Any person who, or clinic that, provides diagnostic imaging~~
31 ~~services without charge to the patient, or on a sliding scale payment~~
32 ~~basis if the patient's charge for services is determined by the~~
33 ~~patient's ability to pay.~~

34 ~~(3) Health care programs operated by public entities, including,~~
35 ~~but not limited to, colleges and universities.~~

36 ~~(4) Health care programs operated by private educational~~
37 ~~institutions to serve the health care needs of their students.~~

38 ~~(5) Any person who, or clinic that, contracts with an employer~~
39 ~~to provide medical services to employees of the employer if the~~
40 ~~diagnostic imaging services are provided under the contract.~~

1 ~~(6) Diagnostic imaging services that are performed within a~~
2 ~~physician and surgeon's office, as defined in paragraph (5) of~~
3 ~~subdivision (b) of Section 650.01, or the office of a group practice,~~
4 ~~as defined in paragraph (6) of subdivision (b) of Section 650.01.~~

5 ~~(d) Nothing in this section prohibits a licensee or a physician~~
6 ~~entity from billing globally for professional and technical~~
7 ~~components if both of the following conditions are met:~~

8 ~~(1) Neither the physician, or any member of his or her medical~~
9 ~~group, nor the physician entity has ordered the diagnostic imaging~~
10 ~~services.~~

11 ~~(2) The physician, or a member of his or her medical group, or~~
12 ~~the physician entity provides the professional interpretation of the~~
13 ~~diagnostic imaging service.~~

14 ~~(e) Nothing in subdivision (d) is intended to authorize or permit~~
15 ~~an imaging center to engage in the practice of medicine or exercise~~
16 ~~other professional rights, privileges, or powers in violation of~~
17 ~~Section 2400 of the Business and Professions Code.~~

18 ~~(f) For the purposes of this section, the following terms shall~~
19 ~~have the following meanings:~~

20 ~~(1) "Physician entity" means a professional medical corporation~~
21 ~~formed pursuant to Section 2406 or a general partnership that~~
22 ~~consists entirely of physicians and surgeons or professional medical~~
23 ~~corporations.~~

24 ~~(2) "Responsible third-party payer" means any person or entity~~
25 ~~who is responsible to pay for CT, PET, or MRI services provided~~
26 ~~to a patient, including, but not limited to, a person or entity who~~
27 ~~contracts with insurance carriers, self-insured employers,~~
28 ~~third-party administrators, or any other person or entity who,~~
29 ~~pursuant to a contract, is responsible to pay for CT, PET, or MRI~~
30 ~~services provided to a patient covered by that contract.~~

31 ~~(3) "Supervision" means that the referring licensee is providing~~
32 ~~the level of supervision set forth in paragraph (3) of subsection (b)~~
33 ~~of Section 410.32 of Title 42 of the Code of Federal Regulations.~~

34 ~~(4) "Technical component" includes services other than those~~
35 ~~provided by a physician and surgeon for the CT, PET, or MRI~~
36 ~~including personnel, materials, space, equipment, and other~~
37 ~~facilities.~~